SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Friday 11th August, 2006 No. 250

HIGH COURT OF SIKKIM
GANGTOK

No.28/HCS **Dated: 05.08.2006**

NOTIFICATION

SIKKIM SUBORDINATE COURTS CASE FLOW MANAGEMENT RULES, 2006

In exercise of the powers conferred by Section 7 (iii) of the High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955 as amended by the Adaptation of Sikkim Laws (No.1) Order, 1975 and in exercise of the power conferred by Part X of the Code of Civil Procedure 1908, (5 of 1908) and all other enabling powers, the High Court of Sikkim, makes the following Case Flow Management Rules, 2006 for the Subordinate courts of Sikkim.

1. **Short title and commencement**-

(1) These rules shall be called the Subordinate Courts of Sikkim, Case Flow Management Rules, 2006.

(2) They shall come into force on the date of their publication in the official Gazette.

I. **Division of Cases into different tracks:**

1. The Civil Judge-cum-Judicial Magistrate of all Districts shall at the stage of registration of Title Suits, Money Suits, Civil Execution Cases, Civil Misc. Cases, Civil Misc. Applications, General Register cases, Vigilance Cases, Private Complaint cases, Prosecution Report Cases, Criminal Cases and Cases under the Juvenile Justice Care and Protection Act categorise each of the above cases into three categories depending on the urgency with which the matters should be dealt with in the Fast Track, the Normal Track and the Slow Track. All matters in the Fast Track shall invariably be disposed of within a period not exceeding six months. Matters in the Normal Track should not take longer than a year. Matters in the Slow Track subject to pendency of other

cases in the Court, should ordinarily be disposed of within a period of two years. Where an interim order of stay or injunction is granted in respect of liability of tax or demolition, construction of public premises shall be put in the Fast Track. Similarly all matters involving tenders would also be put in the Fast Track. These matters cannot brook delays in disposals.

2. The Chief Judicial Magistrate-cum-Civil Judges of all the Districts shall at the stage of registration of General Registration Cases, Vigilance Cases, Private Complaint Cases, Prosecution Report Cases, Criminal Misc. Cases, Notification Cases, Title Suits, Money Suits Civil Execution Cases, Civil Misc. Cases and Civil Misc. Application categorise each of the above cases into three categories depending on the urgency with which the matter should be dealt with, in the Fast Track, the Normal Tack and the Slow Track. The matters in the Fast Track shall invariably be disposed of within a period not exceeding six months. The matters in the Normal Track should not take longer than a year. The matters in the Slow Track subject to the pendency of other Cases in the Court should ordinarily be disposed of within a period of two years.

Where an interim order of stay or injunction is granted in respect of liability of tax or demolition or construction of Public premises etc shall be put in the Fast Track. Similarly all matters involving tenders shall also be put in the Fast Track, these matters cannot brook delays in disposals.

3. All the Courts of District & Sessions Judges shall at the stage of registration of Sessions Trial Cases including Sessions Trial (C.I.D. Cases), Sessions Trial (C.B.I Cases), Sessions Trial (Vigilance Cases), Sessions Trial (Pota Cases), Sessions Trial (Human Rights cases), Sessions Trial (N.D.P.S. Cases) Private Complaint Cases, Criminal Revision Cases, Criminal Appeal Cases, all other miscellaneous matters, Title Suits, Eviction Suits, Money Suits, Intellectual Property Rights Suits, Land Acquisition Cases. All appeals MACT cases and all miscellaneous matters categorise each of the above cases into three categories depending on the urgency with which the matters should be dealt with in the Fast Track, the Normal Track and the Slow Track. The matters in the Fast Track shall invariably be disposed of within a period not exceeding six months. The matters in the Normal Track should not take longer than a year. The matters in the Slow Track subject to the pendency of other cases in the Court should ordinarily be disposed of within a period of two years. Capital punishment cases, rape cases, sexual offences, dowry death cases should be kept in Track I. Other cases where the accused is not granted bail and is in jail, should be kept in Track II. Cases which affect a large number of persons such as cases of mass cheating, economic offences, illicit liquor tragedy, food adulteration cases, offences of sensitive nature should be kept in Track III. Offences which are tried by special courts such as POTA, TADA, NDPS, Prevention of Corruption Act, etc. should be kept in Track IV. Track V – all other offences.

The endeavour should be to complete Track I cases within a period of six months, Track II cases within nine months, Track III within a year, Track IV and Track V within fifteen months.

Wherever an appeal is filed by a person in jail, and also when appeals are filed by State, the complete paper-books including the evidence, should be filed by the State within such period as may be fixed by Court.

In appeals against acquittals, steps for appointment of amicus curie or State Legal Aid counsel in respect of the accused who do not have a lawyer of their own should be undertaken by the Courts with notice to the State Legal Services Committee immediately. It shall be presumed that in such an event the accused is not in a position to appoint counsel, and counsel shall be appointed and shall be furnished all the papers.

Where an interim order of stay or injunction is granted in respect of liability to tax, construction, demolition or eviction from public premises etc shall be put on the Fast Track. Similarly, all matters involving tenders would also be put on the Fast Track. These matters cannot brook delays in disposal.

3. The Peshkar of every Court shall at intervals of every month, monitor the stage of each case likely to come up for hearing before the Presiding Officer during

that month which have been allocated to the different tracks.

4. The Judge may shift the case from one track to another, depending upon the complexity, (urgency) and other circumstances of the case.

5. Where computerization is available, data will be fed into the computer in such a manner that the court or Judge will be able to ascertain the position and stage of every case in every track from the computer screen.

6. The Judge shall keep himself informed about the stage of the cases in various tracks listed before him during every week, with a view to see that the cases are taken up early.

2. Mode of Advance Service:

The Court rules will provide for mode of service of notice on the standing counsel for the opposite party wherever available, against whom, interim orders are sought. Such advance service shall generally relate to Governments or public sector undertakings who have Standing Counsel.

APPEALS TO THE DISTRICT & SESSIONS COURTS

1. Service of Notice of Appeal:

First Appeals being appeals on questions of fact and law, Courts are generally inclined to admit the appeal and it is only in exceptional cases that the appeal is rejected under Order XLI Rule 11 at the admission stage.

In addition to the process for normal service as per the Code of Civil Procedure, advance notice should simultaneously be given by the counsel for the party who is proposing to file the appeal, to the counsel for the opposite party in the Trial Court itself so as to enable them to inform the parties to appear if they so choose even at the first hearing stage.

2. Filing of Documents:

The Appellant shall, on the appeal being admitted, file all the essential documents within such period as may be fixed by the Court to enable the Court to understand the scope of the dispute and for the purpose of passing interlocutory orders.

After service of notice is effected, counsel for both sides should agree on the list of documents and evidence to be printed or typed and the same shall be made ready by the parties within the time to be fixed by the Court.

3. Filing of Written submissions and time for oral arguments:

Both the appellants and the respondents shall be required to submit their written submissions.

Cause list may indicate if written submissions have been filed. If not, the Court must direct that they be filed immediately.

After the written submissions are filed, (with due service of copy to the other side) the matter should be listed before the Judge, for the parties to indicate the time that will be taken for arguments in the appeal and thereafter to fix a date of hearing on a clear date when the requisite extent of time will be available.

In the event that the matter is likely to take a day or more, the Court may consider having a Caution List/ Alternative List to meet eventualities where a case gets adjourned due to unavoidable reasons or does not go on

before a court, and those cases may be listed before a court where, for one reason or another, the scheduled cases are not taken up for hearing.

4. **Court may explore possibility of settlement.**

At the first hearing of a First Appeal when both parties appear, the Court shall find out if there is a possibility of a settlement. If the parties are agreeable even at that stage for mediation or conciliation, the Court can make a reference to mediation or conciliation for the said purpose.

If necessary, the process contemplated by Section 89 of CPC may be resorted to by the Appellate Court so, that the hearing of the appeal is not unnecessarily delayed. Whichever is the ADR process adopted, the Court should fix a date for a report on the ADR two months from the date of reference.

5. **Criminal Appeals:**

Criminal Appeals should be classified based on offence, sentence and whether the accused is on bail or in jail.

6. **Note**

Wherever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 or the High Court Act, Rules or any other statute, the provisions of such Codes and statutes shall prevail.

S.W. Lepcha
REGISTRAR GENERAL